

REMARKS

Claims 15-21 and 31-41 are pending in the application. The Office Action rejected claims 15, 17-21 and 31-37 and 39. Further, the office Action objected to claims 16 and 38, and allowed claims 40 and 41.

Applicant herewith cancels claims 15-21 and 31-39. Allowed claim 40 is herewith amended, and allowed claim 41 is unchanged. The new claims 42-66 are dependent from allowable independent claims 40 and 41. These new claims 42-66 were the dependent claims 16-21 and 31-39, dependent from rejected claim 15. No new matter has been added.

A telephonic Examiner Interview was held on January 17, 2008 including Applicants' Patent Attorney Jeffrey Wax and Examiner Justin Krause, in regard to the above-referenced application. No exhibits were utilized during the interview. Claims 40 and 41 were discussed, as were the claims dependent on rejected claim 15. An amendment to claim 40 to alternatively form grooves on a facing surface was discussed. US patent 5,533,811 was also discussed.

Claims Rejected under 35 U.S.C. § 102(b)

The Office Action rejects claims 15, 18-20, 31-36 and 39 under 35 U.S.C. 102(b) as being anticipated by Polch (US Patent 5,533,811). Applicants traverse the claims rejection. In order to serve as a §102 reference, the reference must teach every aspect of the claimed invention either explicitly or impliedly (MPEP §706.02). The cited reference Polch has not done so for at least the following reasons.

The Office Action cited Polch reference:

Regarding Applicants' independent claim 15, the Office Action states that Polch discloses a shield connected to one of the stationary and rotatable component defining a reservoir with the outer component. Applicants traverse the claims rejection.

In contrast to Applicants' claimed invention, Polch does not utilize an affixed shield, but rather a thrustplate. Item 86 is defined by Polch as a thrustplate. Further, the passageways in Polch shown through the bushing 80 and sleeve 90 are designed for pressure equalization, not for fluid

recirculation. As an example, Polch describes pressure equalization ports 94. In contrast, the fluid recirculation passageways in Applicants' claimed invention enable fluid recirculation. The present invention claims differential pressures to cause fluid recirculation, whereas Polch teaches away from differential pressures by creating pressure equalization.

However, in order to more clearly define Applicants' claimed invention, Applicants cancel claim 15 and amend the allowed claim 40 to recite that the grooves are situated on at least one facing surface. That is, Applicants' claim 40 is amended to recite:

means for creating the asymmetric pressure gradient ... comprises spiral grooves defined on at least one of the radial member and the outer component ...

means for sealing the reservoir comprising... a grooved pumping seal formed by spiral grooves on at least one of the radial member and the shield

Further, Applicants herewith cancel the dependent claims 16-21 and 31-39, and present these claims as new claims 42-66 to depend from the allowed independent claims 40 and 41.

Claims Rejected under 35 U.S.C. § 103(a)

The Office Action rejects claims 17 and 21 under 35 U.S.C. 103(a) as being unpatentable over Polch (US Patent 5,533,811). Further, the Office Action rejects claim 37 under 35 U.S.C. 103(a) as being unpatentable over Polch (US Patent 5,533,811) as applied to claim 15, and further in view of Fukutani (US Patent 5,647,672). Applicants traverse the claims rejection to show that obviousness is not established. Features of Applicants' claimed invention are not taught or suggested by the reference. Further, there is no suggestion or motivation either in the reference or in knowledge generally available to one of ordinary skill in the art to modify the reference.

Claims 17, 21 and 37 depend from claim 15. It is submitted that Polch teaches away from Applicants' elements of claim 15, and in particular, the shield and fluid recirculation passageways in Applicants' claimed invention that enable fluid recirculation. That is, the passageways in Polch shown through the bushing 80 and sleeve 90 are designed for pressure equalization, not for fluid recirculation. Polch describes pressure equalization ports 94. Therefore, it is submitted that the

claims 17, 21 and 37 overcome the 35 U.S.C. 103(a) rejection, although these claims are canceled and replaced by the new dependent claims that depend from the allowed claim 40.

Dependent Claims 16-21 and 31-39

It is submitted that Applicants' dependent claims 16-21 and 31-39 are allowable for at least the reasons stated above with regard to the independent claim 15. Further, Applicants' dependent claims, recite further features and combinations of features that are patentably distinct and not taught or suggested by Polch or Fukutani either individually or combined. These dependent claims 16-21 and 31-39 are however canceled herewith and presented as new claims 42-66 to depend from the allowed independent claims 40 and 41.

Claims Objected to under Double Patenting, 37 CFR 1.75

The Office Action rejects claims 16 and 38 under 37 CFR 1.75 as being substantially duplicate of claims 40 and 41. Applicant submits that although claims 16 and 38 are canceled and replaced by the new dependent claims, claims 16 and 38 are not substantially duplicate of claims 40 and 41, since claims 40 and 41 include other limitations that do not appear in claims 16 and 38.


CONCLUSION

In view of the foregoing, it is submitted that claims 40-66, patentably define the subject invention over the cited references of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date.

If the Examiner believes a telephone conference would be useful in moving the case forward, please contact the undersigned at Tel. (310) 312-1500.

Respectfully submitted,
THE WAX LAW GROUP

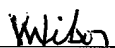
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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on February 1, 2008.


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